

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

FREDERICK SHEPPARD,

Plaintiff,

v.

Case No. 06-C-93

THE MUSIC LINK CORP., et al.,

Defendants.

ORDER

Defendant The Music Link Corporation moved under Civil Local Rule 7.4 for a stay of this case pending a determination made by another court in which a mirror-image action is pending. In that other action, filed in the Northern District of California eight days before this one, Music Link is a plaintiff seeking a declaratory judgment involving a disputed “RECORDING KING” trademark to which both parties apparently claim rights. Sheppard opposes the stay, arguing that this court presents a much more sensible forum for the dispute between the parties. He also suggests a stay would reward forum shopping, anticipatory filings, and jurisdictional jockeying.

It might be that Sheppard is right in suggesting that Wisconsin is the best forum for this dispute. Experience certainly teaches that first-filed cases are not sacrosanct, especially when the first-filed case is a mirror image declaratory judgment action filed only days prior to the companion case. But Sheppard’s arguments go to the merits of the forum dispute, not the meta-question of *which court* should decide that issue. Granting a stay of this case is merely an act of judicial courtesy, allowing the first-filed court to make the determination of which court should ultimately

hear the case. Whatever the merits of the dispute might be, it would be unseemly, confusing, and burdensome if *both* courts were to rule on the same question; thus, deference to the first-filed court is in order. *See Kimberly-Clark Corp. v. McNeill-PPC., Inc.*, 260 F. Supp.2d 738, 740 (E.D. Wis. 2003). Accordingly, this case will be STAYED pending a determination by the court in the Northern District of California. The parties should notify this court when the matter has been resolved.

SO ORDERED this 16th day of February, 2006.

s/ William C. Griesbach
William C. Griesbach
United States District Judge